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U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

**PRELIMINARY AMENDMENT**

Docket Number:  
**11411/115**

Application Number  
**09/482688**

Filing Date  
**January 13, 2000**

Examiner  
**Frank I. Choi**

Art Unit  
**1616**

Invention Title

**FOOD SUPPLEMENT FOR INCREASING LEAN MASS  
AND STRENGTH**

Inventor(s)  
**PAUL T. GARDINER; DEREK E.  
WOODGATE; MARK S. GILBERT AND  
ROBERT W. THOUBURN**

Assistant Commissioner for Patents  
Washington D.C. 20231  
Box: Patent Application

SIR:

Prior to examination, please amend the above-identified application as follows:

In the Claims

Please cancel claims 1, 3-5, 7, 8, 10-16, 18-24, 58-59, 62 and 64, without prejudice.

REMARKS

Claims 1, 3-5, 7, 8, 10-16, 18-24, 58-59, 62 and 64 have been canceled. Claims 25, 27-29, 31-34, 36-38, 40-43, 45-47, 49-57 and 65-67 are now pending in this application.

In the Advisory Action dated March 11, 2002, the Examiner continued to allege that Schneider teach a composition that anticipates the present claims. To expedite the prosecution and without admitting that the Examiner's ground is correct, Applicants cancel those claims directed to a composition without prejudice.

Schneider is directed to a method for modulating micro-circulation in a patient in need of such modulation. Applicants respectfully submit that Schneider fails to provide any motivation or suggestion to one skilled in the art to use the composition in supplementing the diet of an athlete.



[11411/115]

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Paul T GARDINER et al.  
Serial No. : 09/482,688  
Filed : January 13, 2000  
For : **FOOD SUPPLEMENT FOR INCREASING LEAN  
MASS AND STRENGTH**  
Examiner : Frank I. Choi  
Group Art Unit : 1616

Commissioner for Patents  
Washington, D.C. 20231

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:  
Commissioner for Patents, Washington, D.C. 20231, on

Date: 10/30/02 Reg. No. 46,877

Signature: \_\_\_\_\_

Siu K. Lo

PRELIMINARY AMENDMENT TRANSMITTAL

SIR:

Enclosed please find a Preliminary Amendment transmitted herewith for filing in the above-identified patent application.

No fee is believed to be required. However, if any fee is required, the Commissioner is hereby authorized to use Deposit Account No. **11-0600**. A duplicate copy of this transmittal letter is enclosed for that purpose.

Respectfully submitted,

KENYON & KENYON

Dated: 10/30/02

By: \_\_\_\_\_

Siu K. Lo

Reg. No. 46,877

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